

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CIVIL ACTION NO 16-MD-2738 (FLW) (LHG)

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IN RE JOHNSON & JOHNSON : TRANSCRIPT OF
POWDER PRODUCTS MARKETING, : STATUS HEARING
SALES PRACTICES. :
-----: JUNE 21, 2017

CLARKSON S. FISHER UNITED STATES COURTHOUSE
402 EAST STATE STREET, TRENTON, NJ 08608

B E F O R E: THE HONORABLE FREDA L. WOLFSON, USDJ
THE HONORABLE LOIS H. GOODMAN, USMJ

A P P E A R A N C E S:

BEASLEY ALLEN, ESQUIRES
BY: P. LEIGH O'DELL, ESQUIRE (ALABAMA)
-and-

ASHCRAFT & GEREL, ESQUIRES
BY: MICHELLE A. PARFITT, ESQUIRE (VIRGINIA)
CHRIS TISI, ESQUIRE (VIRGINIA)
-and-

COHEN, PLACITELLA & ROTH, ESQUIRES
BY: CHRISTOPHER M. PLACITELLA, ESQUIRE (NEW JERSEY)
On Behalf of the Plaintiffs Steering Committee

BLOOD, HURST & O'REARDON, ESQUIRES
BY: TIMOTHY G. BLOOD, ESQUIRE (CALIFORNIA)
Interim Class Counsel

(Continued.)

* * * * *

VINCENT RUSSONIELLO, RPR, CRR, CCR
OFFICIAL U.S. COURT REPORTER
(609) 588-9516

A P P E A R A N C E S C O N T I N U E D:

DRINKER, BIDDLE & REATH, ESQUIRES
BY: SUSAN M. SHARKO, ESQUIRE
JULIE L. TERSIGNI, ESQUIRE (NEW JERSEY)
-and-
SHOOK, HARDY & BACON, ESQUIRES
BY: KATHLEEN FRAZIER, ESQUIRE (TEXAS)
-and-
SKADDEN, ARPS, SLATE, MEAGHER & FLOM, ESQUIRES
BY: JOHN H. BEISNER, ESQUIRE (WASHINGTON D.C.)
On Behalf of Defendant Johnson & Johnson

SEYFARTH & SHAW, ESQUIRES
BY: THOMAS L. LOCKE, ESQUIRE (WASHINGTON D.C.)
-and-
THE AXELROD FIRM, ESQUIRES
BY: SHERYL L. AXELROD, ESQUIRE (PENNSYLVANIA)
On Behalf of Defendant PCPC

COUGHLIN DUFFY, ESQUIRES
BY: LORNA A. DOTRO, ESQUIRE (NEW JERSEY)
-and-
GORDON & REES, ESQUIRES
BY: ANN THORNTON FIELD, ESQUIRE (PENNSYLVANIA)
On behalf of Defendant Imerys Talc America

C E R T I F I C A T E

PURSUANT TO TITLE 28, U.S.C., SECTION 753, THE
FOLLOWING TRANSCRIPT IS CERTIFIED TO BE AN ACCURATE
TRANSCRIPTION OF MY STENOGRAPHIC NOTES IN THE
ABOVE-ENTITLED MATTER.

S/Vincent Russoniello
VINCENT RUSSONIELLO, CCR
OFFICIAL U.S. COURT REPORTER

M O R N I N G S E E S S S I O N

3 | (In open court.)

4 THE CLERK: All rise.

JUDGE WOLFSON: Thank you.

6 (Appearances given.)

7 | * * * * *

8 JUDGE WOLFSON: On the record.

9 JUDGE GOODMAN: We're starting with the
10 June 19, 2017, letter that you folks sent in with
11 regard to the pathology protocol.

12 A lot of it has to do with timing of the
13 notice and I think we can deal with that without oral
14 argument. I don't need to hear anything on that. I
15 think that is just a practical issue and we'll deal
16 with it.

17 What I need to hear more on is the
18 preservation of the materials because honestly I don't
19 know what's involved. And to the extent the issue is
20 who has the burden of preserving the materials,
21 whether it's plaintiff or a facility that I have no
22 control over and cannot order to do anything, I don't
23 understand where we're going with this.

I need to know: How is this typically dealt with in a case of this kind? Who typically takes

1 control over the pathology specimens, whose burden it
2 is? What burden is it? Is it expensive? Why isn't
3 it something that the experts are dealing with?

4 So I would like to hear something on this.

5 Frankly, the letter raises more questions than it's
6 answering for me.

7 MS. PARFITT: Your Honor, if I may, I'll
8 start. Please interrupt me at any point in time to
9 ask any questions, and counsel as well.

10 Thank you first with regard to the deadlines.
11 I agree with the Court. That should be something we
12 should be able to reconcile.

13 With regard typically -- and I guess there is
14 never any typical situation in life anymore -- but
15 typically when we had slides, the plaintiffs have made
16 the request because it's our expert first that would
17 like to look at the slides and do whatever it is that
18 they need to do. So what has been our experience, we
19 will request the slides that can be generated from the
20 medical facility, the path lab.

21 Now, Your Honors are aware of the fact that we
22 have a preservation order that has been entered which
23 also covers pathology. To the extent that the
24 pathology sections and departments of the various
25 hospitals and medical centers have been notified that

1 they may be in possession of tissue, that we would
2 like them to hold on to because sometimes there are
3 times when a facility might only have to keep tissue
4 blocks, et cetera, for a period of 7 years, whatever
5 the period may be.

6 So those facilities have now been notified by
7 plaintiffs that they are to preserve and hold on to
8 the material that we may need to request.

9 JUDGE GOODMAN: Right. We dealt with that at
10 the last conference, the time needed, and that's been
11 taken care of.

12 MS. PARFITT: Correct. So we started that
13 process.

14 Now, what we're talking about is actually
15 getting down to the actual work and requests, the
16 specific slides that may be relevant to our
17 plaintiffs.

18 So typically what we do is we send requests
19 again to the hospital, medical facility, asking that
20 they provide us with blocks, ideally, if they only
21 have blocks, or tissue, whatever the pathology
22 materials that we would need.

23 We usually have a pathology report from the
24 physician that has identified the relevant pathology.
25 So what we do is we send the pathology report along

1 with the request for certain pathology materials.

2 Then we get them. And there is a chain of
3 custody process and we have prepared a chain of
4 custody letter that more often than not we will ask
5 that the facility -- and it's done differently. I
6 can't speak to all law firms.

7 Some may have the facility sent it to their
8 law firm and the law firm then sends it out to the
9 expert. Some may make arrangements to have the
10 facility send it directly to the expert.

11 We have had occasions where we have requested
12 blocks and the facility has refused to give us blocks.
13 They will only give us slides. And then we have to
14 get the expert involved in actually trying to get what
15 he or she needs.

16 So, again, typically, what you are seeing is
17 the plaintiffs are initiating the process. Then what
18 this preservation order has to address is the fact
19 that the defendants are also entitled to look at those
20 pathology materials that our experts have looked at.

21 So what we're trying to do is set up a process
22 that allows both sides access to relevant materials
23 and evidence. So what that involves is what's frankly
24 laid out here. Where there is a dispute, if there is
25 a dispute, is within this particular protocol the

1 defendants, and I believe it's the section that deals
2 with -- it's Section 5, Paragraph 9, that talks about
3 dealing with half of the preserved material. So we
4 say to the facility save half for our friends over
5 here who may also wish to have their experts look at
6 the tissue and the material.

7 The problem is the defendants want us to say:
8 We agree to preserve and maintain at least one-half of
9 any preserved material. Ideally, that is exactly what
10 we would like them to do. The problem is that we too
11 make requests to the facility. I don't own, control,
12 any of the facilities that are receiving my requests,
13 nor do any other plaintiff.

14 So one would hope that a medical facility who
15 now has probably two requests: One, preservation
16 letter, hold on to everything; two, a request
17 specifically for pathology materials. Half be sent,
18 be saved, so that they can also be used by the
19 defendants.

20 Frankly, in the course of this protocol that
21 your Honor has, it's probably the only one that makes
22 it difficult for us to agree to. It's very difficult
23 to represent before your Honors we will do this. I
24 don't have that kind of power or control. What I do
25 have is the ability to not only on behalf of my firm

1 but that all firms understand what their requisite
2 obligations are with regard to the evidence here.

3 That's what we are trying to do is set forth a
4 protocol that permits our experts to adequately review
5 the evidence and frankly for the defendants to have an
6 opportunity to look at that evidence as well.

7 JUDGE GOODMAN: So have there been any
8 pushback, any objection from any of the facilities
9 that you sent preservation notices to?

10 MS. PARFITT: Again, I can only speak from my
11 own firm's experience. No, the pushback would be
12 blocks. There has been pushback with regard to
13 providing blocks. At times we have been successful in
14 getting those blocks because we had our medical people
15 speak with their medical people and it seems that
16 dialogue has been a useful one. Sometimes that's
17 happening. We certainly entertained that opportunity.

18 I can't speak for anyone else. I believe most
19 medical facilities are very good about honoring these
20 kinds of requests. One thing we have done is we just
21 don't send it to a medical facility, generally, to
22 their risk assessment or their health office. We will
23 send a separate letter out to pathology.

24 What we have learned in the past is they don't
25 all speak to each other. So we send separate requests

1 to the facility. So any facility could have three
2 letters from us and that's an assurance that the word
3 is getting to them.

4 JUDGE GOODMAN: But the way this works, as I'm
5 understanding it, is that the facility has a tissue
6 specimen and they have been asked to maintain that.

7 Now, they are being asked to send one-half of
8 that be it by slide or block --

9 MS. PARFITT: Pathology materials, yes.

10 JUDGE GOODMAN: One-half to plaintiffs' expert.
11 And the question is whether the other half is sent to defendants' expert or maintained by the
12 facility? Is that the question? What is it
13 defendants want to have happen here?

14 MS. FRAZIER: What we would like to happen is rather than put it in the facility's domain or make it their burden to divide and make sure that they divide equally the pathology and give it to each side and photograph it and such, that burden then would shift to the plaintiffs because the facilities themselves are not in the business of litigation. They really don't have anyone taking care of patients. They are trying to make sure that they are identifying diseases and things like that.

25 So I think to add to their burden to not only

1 preserve this tissue but to photograph it and to make
2 sure that they divide it equally and hold onto the
3 other half for us -- because remember the plaintiffs
4 are ordering these pathology specimens before usually
5 we are even aware of their existence. So we would
6 then order them at some later period of time.

7 Now, if the plaintiffs obtain the specimen and
8 they are the ones who photograph and divide it, then
9 at least we know that the plaintiffs are -- it's their
10 burden to do it. It's in their control.

11 As Ms. Parfitt has said, she doesn't control
12 the facility. So she can't control whether or not
13 they are going to hold on to the other half of the
14 specimen, whether or not they have actually divided it
15 equally or photographed it.

16 JUDGE GOODMAN: But the Court doesn't control
17 the facility either and can't order the facility to do
18 this. Is this a burdensome thing? If half of it is
19 going to plaintiffs' expert, why isn't the other half
20 going to defendants' expert at the same time?

21 Or, if the burden is in the dividing and
22 photographing, why not have it go to an independent
23 lab and let the independent lab send half to each of
24 you so that the chain of custody is preserved?

25 I'm hearing that you want plaintiffs' expert

1 to do it. But are we going to have problems down the
2 road that they didn't do it right and issues there?
3 I'm just trying to understand what the logistics are
4 here.

5 MS. PARFITT: Your Honor, if I may, let me
6 speak to the mesh litigation. In that litigation, you
7 also had requests for thousands and thousands of
8 pathology specimens.

9 What we have done and what again a lot of
10 plaintiffs' lawyers have done and I suspect defendants
11 do it as well, when tissue is requested, we want to do
12 that early on. That's why you have this order in
13 front of you. We want to get that material ordered
14 and somewhere outside of the lab of the medical
15 facility because there are compliance issues that
16 medical facilities have to comply with and they are
17 not always as long as we wish they were.

18 So what we have done is contract, some
19 plaintiffs' lawyers contract as well with the facility
20 that houses this tissue, so that not every piece of
21 pathology specimen is being looked at in the moment.
22 It's requested and then it's sent immediately to,
23 let's call it, a facility that actually houses,
24 provides a home for them, the materials. They know
25 not to get rid of the materials for decades. So

1 that's something that's in play as well.

2 To answer your question directly, it hasn't
3 been problematic. I have had many, many, many, many,
4 many mesh specimens and this is the process that we
5 have followed. We have ensured that the preservation
6 letters are sent to the medical facilities. They have
7 legal departments. I don't think they are blatantly
8 ignorant of the requests. We tell them what we need.

9 We do that in this case on two occasions. Not
10 only have we sent preservation letters out, but we
11 have sent a specific letter to the facility that your
12 Honor has in front of her, and even a third occasion
13 where sometimes we send our own letter directly to
14 pathology. So there are three occasions for the
15 pathology department to hold on to the tissue.

16 JUDGE WOLFSON: Can I ask a question even
17 though it's Judge Goodman's issue?

18 MS. PARFITT: Sure.

19 JUDGE WOLFSON: What you have identified that
20 you have done in the past is have this separate
21 facility that it gets sent to to preserve it so the
22 hospital is off the hook. And, by the way, does that
23 facility then do anything further before it provides
24 it to your expert?

25 MS. PARFITT: No. They just simply house it.

1 JUDGE WOLFSON: Simply house it. Okay.

2 So they are not dividing because supposedly
3 they've gotten only your half of what you need?

4 MS. PARFITT: Not at all.

5 JUDGE WOLFSON: Well, if you agree to
6 whichever facility is going to be to house it, you can
7 both agree to that. It can be maintained there. And
8 we're still dealing with how does each one get their
9 half. But if the entire specimen is sent to that
10 facility, then you can each get the half when you want
11 it. Because now you control that facility. It's no
12 longer the issue of how we're going to get it.

13 Now, I understand who is going to have it, or
14 cut it, and do it, that could be worked out. But in
15 the sense of preservation at this point and who has
16 the responsibility, if you get it out of the hospital
17 setting and agree on a facility that's going to hold
18 it, doesn't that start with at least we've got
19 preservation?

20 MS. PARFITT: Well, let me put another little
21 kink in that armor a little bit.

22 JUDGE WOLFSON: Okay.

23 MS. PARFITT: While we had something in this
24 order for the other half to be saved to potentially go
25 to the defendants, there are occasions that only the

1 half of the pathology specimens that are cut are ever
2 utilized by either side.

3 I've had many situations in other cases where
4 the half that was kept and sent to say our experts,
5 those materials were then subsequently sent, whatever
6 our expert has was sent to their expert.

7 JUDGE WOLFSON: It almost sounds like they
8 want that. In fact, I read that as part of one of the
9 positions that, when you are done, whatever you gave
10 to your expert please give to us. That's another way
11 of doing it as well.

12 All I'm suggesting is maybe it's that we don't
13 even request a half. Request it all to be sent to the
14 facility.

15 MS. PARFITT: I don't think they will turn it
16 all over.

17 THE COURT: They won't. Okay.

18 MS. PARFITT: That will be the other issue
19 you're going to have because the hospital is not going
20 to turn it all over. That hasn't been my experience.

21 JUDGE WOLFSON: Well, isn't it essentially all
22 turned over if effectively they give you the half and
23 then they give them the other half?

24 MS. FRAZIER: Or they don't give us any
25 because they have already given out --

1 JUDGE WOLFSON: Okay. Whatever. But I'm just
2 saying at some point if we do half, half, it's still
3 going to be all turned over.

4 MS. PARFITT: I think it's what half is. A
5 facility may say: You get half of a half that we are
6 going to give you, plaintiff. So let me make that
7 clarification.

8 JUDGE WOLFSON: You are saying they may in
9 fact, what they're giving you, let's say, they have
10 more than one slide, block, whatever it might be, and
11 they are giving you some portion of it and they are
12 still retaining some of it.

13 MS. PARFITT: Correct. And that really has
14 been our experience. I will tell you that of our
15 physician. The hospital is somewhat loathed to turn
16 everything over on an individual patient. They want
17 something.

18 JUDGE WOLFSON: I understand that. Right.
19 Because they never know what's going to come down the
20 line where they are concerned, either.

21 MS. PARFITT: Correct.

22 JUDGE WOLFSON: I understand that.

23 You could take it over.

24 JUDGE GOODMAN: All right. So we're talking
25 about some portion of the whole. It doesn't matter

1 whether it's half of a half --

2 MS. PARFITT: Correct.

3 JUDGE GOODMAN: -- or the half.

4 I think Judge Wolfson is picking up on the
5 same thing I'm thinking. Why not get whatever portion
6 they are willing to release to a separate location
7 that you folks agree on, do the division there, and
8 take it from there and share the cost of the
9 preservation. You get your half. You get your half
10 of whatever is given over. Your experts have carte
11 blanche to do what they want to do.

12 MS. PARFITT: Your Honor, I guess my response
13 to that would be, while this may be what my firm has
14 done, we are using a housing facility. I can't tell
15 you that that's what all law firms do nor do they need
16 to do that.

17 Oftentimes the firm will decide that they will
18 make the request. It will go directly to the expert.
19 There is no need to house it. And it gets sent back
20 to the hospital. Because sometimes the hospital wants
21 us to return. That's another issue. Again, there's a
22 lot of kinks in this armor. That's why the protocol
23 you have in front of you is probably a protocol that
24 has anticipated all of the problems we've had in the
25 past with tissue.

1 JUDGE GOODMAN: You are anticipating
2 problems that may not happen and I think it's becoming
3 a mess.

4 MS. PARFITT: Well, no, and it hasn't because
5 in the past -- and I don't even think we have a mess.
6 I don't believe there is a lot of disagreement between
7 the parties as to the protocol before. I think what
8 this protocol should do is allow the personal
9 preferences of the firms. And some would simply
10 request directly to a facility, get it back; and the
11 facility's preference would be to have it returned
12 directly to them, not to be sitting around in some
13 housing facility.

14 Now, if you want to do that, you may be able
15 to make arrangements as well with the medical
16 facility. They'll let you send it to a new home for a
17 period of time. This I believe allows all that to
18 happen.

19 Candidly and frankly what you have in front of
20 you is something that has worked in most litigations
21 involving tissue. The only quarrel we had, and we
22 almost didn't come before you, was on timing.

23 JUDGE GOODMAN: Aren't you sorry that you did.

24 MS. PARFITT: No, it's always good to talk
25 about these things. But I think we can simplify it.

1 I don't think there is much disagreement about the
2 content of what has to happen.

3 Both sides, I believe, and you can speak for
4 yourself, Ms. Frazier, if you feel different, it's
5 really just what's practical time limits to accomplish
6 what was set forth here? I will represent to the
7 Court that what's set forth here is typically what's
8 been done in the past.

9 I do not believe that there has been
10 enumerable motions and problems with the process. It
11 seems to have worked. The only quarrel we have, if
12 you want to call it a quarrel, was: Do the plaintiffs
13 have 14 days to take action or do they have 21 days?
14 That was really it.

15 The other issue was: Do we add after the
16 14 days or the 21 days, "as soon as practicable"? Why
17 was that a vetting point back and forth? It's
18 because, again, in the MDL we don't control every
19 single plaintiffs' attorney.

20 We are trying to give them a couple of days
21 either way so that you don't receive motions from the
22 defendants that we weren't in compliance. We are
23 trying to set up a system that works that doesn't
24 cause unnecessary motion practice.

25 We shouldn't be abusive. And I think that's

1 the message that goes out by the plaintiffs. You
2 can't abuse the leeway or the margin of error the
3 Court has given you. The Court is acting practically,
4 but you can't abuse it.

5 The last difference of opinion is with regard
6 to the request. Is the request to the facility? It
7 should be to the facility. Do we have an obligation
8 to make sure the facility understands what we need?

9 And if we run into a problem, then I think we
10 should go to the defendants. If we're having a
11 problem, we could notify them that we are having a
12 problem. But I can't control medical facilities
13 around the country.

14 JUDGE WOLFSON: Let me just ask one other
15 question before Judge Goodman goes on.

16 MS. PARFITT: Sure. Of course.

17 JUDGE WOLFSON: I understand plaintiffs'
18 position as well as defendants' position. All you
19 would like to do is, you would like to notify the
20 facility. You would like to get your half. You would
21 like to put them on notice: Maintain another half
22 because the defendant is making a request. And you
23 say: It's on them because maybe they are not going to
24 make a request of the hospital itself. Maybe they
25 want to get it from you, whatever.

1 Could we have it done in such a way -- and I
2 know your concern is: Well, what if the hospital
3 doesn't want to give us another half? They really
4 didn't maintain the other half. They gave them
5 everything.

6 But if we have kind of a two layer, which is:
7 They are told to maintain half for you. You can get
8 of the same sample that they gave. You can get it
9 directly. If you have an issue, your expert is
10 obligated to preserve the sample that they get.

11 So if they are unable to get it from the
12 hospital, or if they have a preference that they would
13 rather get it from your expert, that that's available
14 to them.

15 Can we do that so there is two layers so
16 you've got that built that you know you are going to
17 get a sample? How about that?

18 MS. FRAZIER: I guess that could work. Again,
19 the timing.

20 JUDGE WOLFSON: Okay. That works. Let's
21 finish that.

22 Are you in agreement, too?

23 MS. PARFITT: I think that would work.

24 I didn't mean to bring one other thing up to
25 the Court. I think we've made some progress on that.

1 Understand, as well, your Honors, that
2 standing before the Court today there are people who
3 have already requested their tissue. I think this
4 addresses that circumstance as well. So I think your
5 plan may work. I don't think we have a problem.

6 THE COURT: All right.

7 JUDGE GOODMAN: So there is a fail-safe. The
8 facilities are put on notice. Plaintiff gets their
9 sample, but plaintiff has to preserve. We're not
10 talking about destructive testing here, so the
11 specimens are preserved.

12 MS. PARFITT: Your Honor, this doesn't even
13 talk about the type of testing because we couldn't get
14 this far. That is an issue we need to take up not
15 today. What we need is to make sure moving forward we
16 have a process because I know you appreciate up until
17 now there isn't one. So what people are doing is what
18 they are doing.

19 So we are trying to get a process forward.
20 That's why I am trying to simplify it. I think what
21 you have suggested, your Honors, will simplify it.
22 All we have to do now is days, decide how many days
23 everyone gets, and I think we have a plan.

24 JUDGE GOODMAN: All right.

25 MS. FRAZIER: I have one final point on that.

1 The plaintiffs' duty to preserve the specimen
2 just in case we aren't able to, would that duty go to
3 preserve at least half of what they get, so that we
4 can get it if we can't get it from the facility?

5 JUDGE WOLFSON: Well, the obligation to
6 preserve half would come into play if there is
7 destructive testing.

8 MS. PARFITT: We aren't there yet.

9 JUDGE WOLFSON: So if it doesn't destroy it,
10 it doesn't matter. But if there is going to be
11 destructive testing --

12 MS. PARFITT: Then we have to have another
13 process.

14 JUDGE WOLFSON: That's what it would do.

15 JUDGE GOODMAN: And that's a whole other level
16 of negotiation once you find out what your experts are
17 going to do and by then you should know what's
18 available.

19 MS. PARFITT: Because understand the
20 overarching concern for us is the overarching concern
21 for them. We recognize in a case like this tissue is
22 important. It does not behoove us to do something to
23 impede that process. So I actually think the parties
24 are on the same page. It's just the mechanism.

25 JUDGE GOODMAN: All right.

1 Now, with regard to the timing, I have to tell
2 you, I think you have done a lot of good work here.
3 You have agreed on most of this. I am not persuaded
4 that "as soon as practicable" belongs in here. It's
5 basically eviscerating the agreement in terms of
6 14 days or 7 days or 21 days.

7 I am willing to say, if it's 14 days that you
8 agree on, or additional time, if there are extenuating
9 circumstances, but no longer than 21 days. Because
10 you folks have a lot of hands working on this. You
11 could get it done within the timeframe. If something
12 unthinkable happens, you have a little window but only
13 if something truly extenuating happens.

14 So if you agree to 14 days, I'm willing to say
15 or 21 days if there are extenuating circumstances.
16 But what I don't want to happen is 14 days is then
17 21 days every time. This has to get done. You've
18 agreed to it. This is really ministerial.

19 JUDGE WOLFSON: In fact, who is doing this,
20 plaintiffs' counsel or the facility that's getting it?

21 MS. PARFITT: It will depend on frankly what
22 step in this process that you are in. That's why we
23 were asking for the additional time and the little bit
24 of a margin of error because, again, the facility may
25 not move as quickly or we can't get the information or

1 we have a plaintiff's lawyer that calls us and says:
2 What are you doing? I'm in trial for a month. I
3 can't do this. We're not trying to be abusive.

4 JUDGE WOLFSON: But it's a little form. The
5 words are: "Notify within 14 business days," or
6 whatever, "after receipt of the material."

7 When they come in the door any assistant could
8 be noting they have come in the door and we have this
9 form that we send out that's a checkoff. We have
10 received materials today in such and such a case.

11 MS. PARFITT: I don't disagree with the Court
12 that it's ministerial. I think the problem we have
13 standing before your Court is that it's not just the
14 firms --

15 JUDGE WOLFSON: You are talking about some of
16 the smaller firms. You don't know where they are
17 around the country that may be getting these and how
18 you control them.

19 MS. PARFITT: Exactly.

20 JUDGE WOLFSON: Well, you are going to have to
21 tell them then.

22 MS. PARFITT: We will. We will certainly tell
23 them.

24 But I think what you've indicated, and I think
25 this has been certainly your mantra from the

1 beginning, we don't want a motion practice on things
2 like this for everything. You don't want us showing
3 up next month with 60 plaintiffs behind us who have
4 suggested that they weren't able to meet their
5 obligation.

6 That is really what we are trying to avoid.
7 We are thinking forward. We are thinking that things
8 are not perfect all the time and we just want to have
9 a process in place which has a little flexibility to
10 it.

11 And I suspect, your Honor, if even in the
12 21 days and it was that extenuating circumstance, I
13 would like to be able to stand before your Court and
14 say: Your Honor, I know what you said. Don't go
15 beyond that 21 days. These are the circumstances.
16 This is why it couldn't happen. But they'll have it
17 to you 27 days, whatever.

18 That's what we are looking for. I don't think
19 that's an unreasonable thing when you are guiding the
20 efforts of so many other plaintiffs. I wish I could
21 say Ms. O'Dell and our PVC have that kind of control.
22 But I will tell you, all we could do is give you our
23 best effort.

24 MS. FRAZIER: Your Honor, it seems to me that
25 an order by the Court would help to enforce that and

1 to get to these other plaintiffs' counsel to move on
2 these issues.

3 JUDGE GOODMAN: There will be an order. We
4 will do an order. It's going to be 14 days. If
5 extenuating circumstances, 21.

6 Your first recourse, it's going to be in an
7 order and I'm sure that you are all going to tell all
8 of the plaintiffs' counsel what their obligations are.
9 If there is for some reason someone who does it in
10 23 days, your first recourse is to go to Ms. Frazier.
11 There was a death in the family. There was something
12 impossible to work around.

13 I don't expect defendants to come running in
14 to me because someone had a death in the family. But
15 because someone said: Oh, you know, maybe an order is
16 only guidelines, not really controlling, that's a
17 problem and you need to control your plaintiffs'
18 counsel. You have to make sure that they are doing
19 what they have to do.

20 So that's my inclination on this: 14 days;
21 21 for extenuating circumstances.

22 JUDGE WOLFSON: Off the record.

23 (Discussion off the record.)

24 THE CLERK: All rise.

25 (Proceedings concluded.)

1
2 **C E R T I F I C A T E**
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6 I, **Vincent Russoniello**, Official United States
7 Court Reporter and Certified Court Reporter of the
8 State of New Jersey, do hereby certify that the
9 foregoing is a true and accurate transcript of the
10 proceedings as taken stenographically by and before me
11 at the time, place and on the date hereinbefore set
12 forth.

13 I do further certify that I am neither a relative
14 nor employee nor attorney nor counsel of any of the
15 parties to this action, and that I am neither a
16 relative nor employee of such attorney or counsel, and
17 that I am not financially interested in this action.

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20

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24 S/Vincent Russoniello
 Vincent Russoniello, CCR
 Certificate No. 675
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